

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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|---------------------------------|---|-----------|
| SHERRIE A. GARBER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 1:10CV283 |
| |) | |
| CAROLYN W. COLVIN, ¹ |) | |
| Acting Commissioner of Social |) | |
| Security, |) | |
| |) | |
| Defendant. |) | |

ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation ("Recommendation") filed on August 12, 2014, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 14.) In the Recommendation, the Magistrate Judge recommends that the Commissioner's decision finding no disability be affirmed, that Plaintiff's motion for summary judgment (Doc. 9) be denied, that Defendant's motion for judgment on the pleadings (Doc. 11) be granted, and that this action be dismissed with prejudice. The Recommendation was

¹ Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted for Michael J. Astrue as the Defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

served on the parties to this action on August 12, 2014.

Counsel for Plaintiff filed timely objections (Doc. 16) to the Recommendation and counsel for the Commissioner filed a response to the objections (Doc. 17).

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 14) is **ADOPTED**. **IT IS FURTHER ORDERED** that Plaintiff's motion for judgment on the pleadings (Doc. 9) is **DENIED**, that the Commissioner's motion for judgment on the pleadings (Doc. 11) is **GRANTED**, that the Commissioner's decision is **AFFIRMED**, and that this action is dismissed with prejudice.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 30th day of September, 2014.

William L. Ostrow, Jr.

United States District Judge